

SAMPLE SERVICE ANIMAL POLICY

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BACKGROUND

The federal Fair Housing Amendments Act of 1988, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Montana Human Rights Act require that applicants and tenants with disabilities be provided with reasonable accommodations and/or modifications as needed, in order for them to have an opportunity for full use and enjoyment of their housing. Allowing tenants, and their guests who have disabilities, to be accompanied by their service animals is a reasonable accommodation to a housing policy and practice.

WHO NEEDS SERVICE ANIMALS?

Some people with disabilities require the assistance of an animal because of substantial limitations caused by the disability. Under most federal laws, a person is considered to be disabled if s/he has a sensory, mental or physical condition that substantially limits one or more major life activities (such as walking, talking, seeing, working, etc.).

WHAT IS A SERVICE ANIMAL?

The most common service animals are dogs, but sometimes other species are used (for example, a cat or a bird). Service animals may be any breed, size or weight. Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or "certified" and/or have identification papers. There is no legal requirement for service animals to be visibly identified, to have "special" training, or to have documentation. The Fair Housing Amendments Act considers "companion" animals to be a type of service animal provided the need for the animal is linked to limitations arising from a disability.

WHAT'S THE DIFFERENCE BETWEEN A SERVICE ANIMAL AND A PET?

Service animals are not considered to be pets. A person with a disability uses a service animal as an auxiliary aid -- similar to the use of a cane, crutches or wheelchair. For this reason, fair housing laws require that housing providers make reasonable accommodations to "No Pet" policies to permit the use of a service animal by an individual with a disability. Pet fees cannot be charged for service animals (see guidelines below).

WHAT DO SERVICE ANIMALS DO?

Service animals perform many types of services for people with disabilities. Here are some examples:

- A guide animal serves as a travel tool by a person who is legally blind.
- A hearing animal alerts a person with significant hearing loss or who is deaf when a

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sound occurs, such as a ringing alarm or a knock on the door.

- A service animal can assist with carrying, fetching, opening doors, ringing doorbells, activating elevator buttons, steadying a person while walking, helping a person up after a fall, etc. Service animals sometimes are called assistance animals.
- A seizure response animal assists a person with a seizure disorder. The animal's service depends on the person's needs. The animal may go for help, or may stand guard over the person during a seizure. Some animals have learned to predict a seizure and warn the person.
- A companion animal, therapy animal, or emotional support animal assists people with psychological disabilities. Emotional support animals can help alleviate symptoms such as depression, anxiety, stress and difficulties regarding social interactions, allowing tenants to live independently and fully use and enjoy their living environment.

Because service animals provide different types of assistance, a person with a disability may require more than one service animal.

WHAT ABOUT OTHER TENANTS WHO ARE AFRAID OF, OR ALLERGIC TO, ANIMALS?

While some people might fear dogs or other animals, this fear does not amount to a disability, so a housing provider need not "accommodate" the fear. For most people with allergies, the presence of an animal will cause only minor discomfort, such as sneezing or sniffing. Because this reaction does not constitute a disability, no accommodation is necessary for the allergic person. Rarely, a tenant's allergy is so severe that animal contact may cause respiratory distress; in these cases, the allergic tenant may also request an accommodation (for example, to keep the animal and the allergic tenant in separate areas of the building, as much as is possible).

GUIDELINES FOR STAFF - SERVICE ANIMAL ACCOMMODATIONS:

Property management must review all requests a tenant with a disability makes for reasonable accommodations, including requests for a service animal. You can require the tenant to provide written verification from a medical provider that the tenant has a disability and needs the service animal (the provider need not be an M.D.). You can request information about the limitations of the disability and how the accommodation (the service animal) will offset those limitations. You cannot require the tenant to provide information about diagnosis or treatment.

PET RULES AND "NO PETS" RULES:

If you allow tenants to have common household pets and you place limitations on the size,

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weight, and type of pets allowed, these rules do not apply to service animals. Service animals may be any type of animal and any breed, size or weight, and an accommodation may involve more than one service animal.

If your housing complex has a "no pets" rule, such rules do not apply to service animals. If property management has documentation that the tenant has a disability and needs the service animal as a result, then the tenant can live with the animal despite the no pets rule.

DEPOSITS AND FEES:

A service animal is not a pet. Regardless of whether your property allows pets, the tenant with a disability who uses a service animal is not required to make a pet deposit, pay additional rent or fees for the animal, or pay a pet-related move-in cleaning fee. You may charge the same general cleaning or damage deposit that is charged to all tenants. The tenant is liable for any damage the animal actually causes.

AWARENESS TRAINING:

Property management should ensure that staff is properly trained in the facility's service animal policies, including the following rules--

- Allow a service animal to accompany the tenant at all times and everywhere on the property except where animals are specifically prohibited (such as in the pool).
- Do not pet or touch a service animal. Petting a service animal when it is working distracts the animal from the task at hand.
- Do not feed a service animal. The animal may have specific dietary requirements. Unusual food or food at an unexpected time may cause the animal to become ill.
- Do not deliberately startle a service animal. Avoid making noises at the animal (barking, whistling, etc.).
- Do not separate or attempt to separate a tenant/handler from her or his service animal.
- Avoid initiating conversation about the service animal, the tenant's disabilities or other service animals. If you are curious, you may ask if the tenant/handler would like to discuss it, but be aware that many people with disabilities do not care to share personal details.
- Remember, not all disabilities are visible. The nature of the person's disability is a private matter, and you are not entitled to know the details.
- If other tenants complain about the fact that they are not allowed to have a pet and want to know why you have made an exception, simply state that your company complies with the fair housing laws. You can also refer your tenants to the fair housing laws or Montana Fair Housing for further details.
- Service animals do not need to wear any special identifying gear such as tags,

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harnesses or capes. Service animal owners/handlers are not required to carry any paperwork documenting the animal as a service animal.

- A tenant may train his or her own service animal and is not required to provide any information about training or the specific tasks the animal performs.

REMOVAL OF A SERVICE ANIMAL:

If a service animal is unruly or disruptive (aggressively jumping on people, nipping, or other harmful behavior), the property manager may ask the tenant/handler to remove the animal from the immediate area. If the animal's improper behavior happens repeatedly, the manager may tell the tenant not to bring the animal into any common area, until significant steps have been taken to mitigate the behavior. Mitigation can include refresher training for both the animal and the tenant.

AREAS OFF-LIMITS TO SERVICE ANIMALS:

Management may designate certain areas off limits to service animals, such as swimming in the pool or inside the sauna room. Such designations should not infringe upon the right of a person with disability to full enjoyment of the amenities of the community.

GUIDELINES FOR TENANTS WITH SERVICE ANIMALS:

The tenant who needs a service/companion animal should submit a request in writing to the housing provider requesting an accommodation for the tenant's disability. The tenant is not required to disclose the nature of his/her disability.

VERIFICATION OF DISABILITY AND NEED FOR A SERVICE ANIMAL:

The tenant may be asked to provide written verification that s/he has a disability and that the accommodation is necessary to give the tenant equal opportunity to use and enjoy the community. The tenant should obtain a signed letter from his/her health care provider and submit this verification to the housing provider. The letter should address the following questions:

- Is the person disabled as defined by the fair housing laws?
- In the health care provider's professional opinion, does the person need the requested accommodation (use of a service animal) to have the same opportunity as a non-disabled person to use and enjoy the housing community?

ANIMAL CARE AND SUPERVISION:

This document is provided as a public service and is not legal advice. If you are seeking legal advice, please contact an attorney.

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The tenant/handler has the responsibility to care for and supervise the animal. The tenant must retain full control of the animal at all times. This generally means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in the direct control of the animal owner/handler. When in the presence of others, the animal is expected to be well behaved (not jumping on or nipping at people, not snarling or barking, etc.).

You can request documentation that the service animal has had all necessary shots and is licensed, if your city or county regulations require licensing and shots.

You can require that the tenant:

- Never allow the service animal to defecate on any property, public or private (except the tenant's own property), unless the tenant immediately removes the waste.
- Always carry equipment sufficient to clean up the animal's feces whenever the service animal is in the common areas or off the tenant's property.
- Properly dispose of waste and/or litter.
- If needing assistance with cleanup, make arrangements for such help through family, friends or advocates.

PROBLEMS

If you believe staff is not handling your request for a service animal properly, contact your housing provider immediately and/or Montana Fair Housing.